IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 23952 of 2007(B)

PETITIONER:

RAZIYA, W/O. ABDUL SHUKKUR,
KALLINGAL HOUSE, MUCHIKKAL, TIRUR,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS:

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1. TIRUR MUNICIPALITY, REPRESENTED BY
ITS SECRETARY, MUNICIPAL OFFICE, P.O.TIRUR,
MALAPPURAM DISTRICT.

2. MUNICIPAL COUNCIL,
TIRUR MUNICIPALITY, REPRESENTED BY
ITS CHAIRMAN, MUNICIPAL OFFICE, TIRUR,
MALAPPURAM DISTRICT.

***ADDL.R3 AND R4 ARE IMPLEADED**

3. SHAHINA, W/O.ABDUL SALAM, KANDAT HOUSE,
THEKKUMMURI P.O., TIRUR, MALAPPURAM DIST.

4. SALMA, W/O.SHAFI, KAZHUGIL HOUSE,
KUTTIPALAM P.O., EDARIKODE, MALAPPURAM DIST.

*ADDL.R3 AND R4 ARE IMPLEADED AS PER THE ORDER DATED 7.9.2007 IN I.A.11957 OF 2007.

R1-R2 BY ADV. SRI.T.L.ANANTHASIVAN
R3-R4 BY SRI.K.I.ABDUL RASHEED

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C) No.23952 of 2007

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Dated: 25th September, 2007

JUDGMENT

The grievance of the petitioner is that the 1st respondent-Municipality is insisting that the consent of the landlord of the building shall be obtained and produced as a condition for considering her licence application.

2. The Municipality has filed a counter affidavit wherein it is stated that the petitioner has not filed any application for licence in her own name, instead the application has been filed by her husband as if the same is for and on behalf of the petitioner. Such an application, cannot be entertained. In the counter affidavit the Municipality has stated as follows:

"In case, if the petitioner files an application in her name, with necessary documents as per the Kerala Municipalities Act, the same will be considered by the Municipality and take appropriate decision according to law."

There is considerable controversy at the Bar regarding the locus standi of additional respondents 3 and 4 to oppose the grant of licence in favour of the petitioner. Mr.Mohammed Ravuf, counsel for the petitioner would submit that additional respondents 3 and 4 have

not so far filed any objections regarding issuance of licence in respect of room No.314 and the objections is only as regard to room No.315. Mr.K.I.Abdul Rasheed, counsel for additional respondents 3 and 4 does not agree. According to him, objections have already been filed by respondents 3 and 4 pertaining to room No.314 also. Under these circumstances, the Writ Petition will stand disposed of issuing the following directions:

The petitioner is directed to submit fresh application for issuance of licence in her name within 7 days of receiving a copy of this judgment. If any such application is received and that application is found to be in order, the 1st respondent-Municipality will verify whether additional respondents 3 and 4 have filed any objection regarding issuance of licence to the petitioner in respect of room No.314, the room in respect of which the petitioner is to apply for licence. If it is seen on such verification that additional respondents 3 and 4 have filed objections, the Municipality will hear the petitioner and additional respondents 3 and 4 before taking a decision in the matter. Decision as directed will be taken by the Municipality within three weeks of receiving application. Status quo obtaining as on today will be maintained in respect of room No.314 till such time as

the Municipality takes a decision on the prospective licence application.

srd **PIUS C.KURIAKOSE, JUDGE**